

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

Frayne Wiskus,

Plaintiff,

VS.

Adams County Sheriff,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

Case No. 1:07-cv-054

On August 22, 2007, the petitioner, Frayne Wiskus, filed this petition under 28 U.S.C. § 2254 for a writ of habeas corpus by a person in state custody. Magistrate Judge Charles S. Miller, Jr. reviewed Freeman's petition and the pleadings and submitted a Report and Recommendation. On August 27, 2007, Judge Miller recommended that the Defendant's petition under 28 U.S.C. § 2254 for a writ of habeas corpus by a person in state custody be denied. Wiskus was then given ten (10) days to file an objection to the Report and Recommendation. No objection was filed.

The Court has carefully reviewed the Report and Recommendation, relevant case law, and the entire record and finds the Report and Recommendation to be persuasive. Accordingly, the Court **ADOPTS** the Report and Recommendation (Docket No. 3) in its entirety and **DISMISSES** the Petition under 28 U.S.C. § 2254 for writ of habeas corpus by a person in state custody (Docket No. 1). The Court certifies that any appeal would be frivolous, could not be taken in good faith, and may not be taken in forma pauperis. The Court further certifies that Wiskus has failed to make a substantial showing of the denial of a constitutional right and will not grant a certificate of appealability.

IT IS SO ORDERED.

Dated this 17th day of September, 2007.

/s/ Daniel L. Hovland

Daniel L. Hovland, Chief Judge
United States District Court